

**United States Department of Labor
Employees' Compensation Appeals Board**

D.G., Appellant

and

**DEPARTMENT OF VETERANS AFFAIRS,
WEST SIDE MEDICAL CENTER,
Chicago, IL, Employer**

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**Docket No. 12-1869
Issued: May 13, 2013**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On September 13, 2012 appellant filed a timely appeal of an August 10, 2012 Office of Workers' Compensation Programs (OWCP) decision. The Board docketed the appeal as No. 12-1869. On August 10, 2012 OWCP finalized an overpayment determination, finding that an overpayment in the amount of \$2,804.68 occurred because optional life insurance premiums had not been deducted for the period June 13, 2004 through June 5, 2010 and because OWCP had deducted an incorrect amount for the period June 6, 2010 through November 19, 2011.

By letter dated February 24, 2012, it made a preliminary finding that an overpayment in the amount \$2,804.68 had occurred, covering the period June 13, 2004 to June 5, 2010, and that appellant was without fault in its creation.

The Board has duly considered the matter and notes that in the case of *William A. Couch*,¹ the Board held that, when adjudicating a claim, OWCP is obligated to consider all evidence properly submitted by a claimant and received by OWCP before the final decision is issued. In the present case, OWCP received a March 8, 2012 response from appellant to its February 24, 2012 preliminary overpayment notice in which she challenged fact of overpayment and requested a prerecouperment hearing. Appellant submitted statements in which she presented several arguments contesting fact of overpayment, in addition to numerous documents which

¹ 41 ECAB 548 (1990).

showed that she had tried to have OWCP change her insurance codes on several occasions. These included a March 5, 2012 letter which described a series of communications appellant had with an OWCP claims examiner regarding her numerous attempts to resolve/correct the issues concerning life insurance deductions; in these letters she documented various contacts with OWCP and asserted that any alleged overpayment developed because OWCP was not responsive to her inquiries.²

While OWCP is not required to list every piece of evidence submitted to the record, the record is clear that the statements appellant submitted, received by OWCP on March 8, 2012, were not reviewed. In its August 10, 2012 decision, an OWCP hearing representative finalized the February 24, 2012 preliminary determination that an overpayment had occurred and denied waiver of the overpayment. He did not, however, address the issues of fact or amount of the overpayment. The hearing representative did not mention any of the contentions appellant made challenging fact of overpayment in his decision and did not address the factual evidence she submitted with her request for a recoupment hearing. For this reason, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted prior to the issuance of the August 10, 2012 decision. Following such further development as the OWCP deems necessary, it shall issue an appropriate decision on the merits.

IT IS HEREBY ORDERED THAT the August 10, 2012 decision of the Office of Workers' Compensation Programs is set aside; the case record is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: May 13, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

² Included in this packet of documents were several letters appellant sent to OWCP from 2003, 2004, and from 2010 to 2012; among these were handwritten letters dated January 31 and February 19, 2011 in which appellant requested assistance from OWCP.